

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2447 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.P.D.Patil for the petitioner

Mr.Nikhil Pawar i/b Mr.T.S.Ingle for the respondent no.2

Mr.S.D.Rayrikar, A.G.P. for the respondent nos.7 and 8

CORAM : K. K. TATED, J.

DATE : AUGUST 24, 2016

P.C.:

1 Heard the learned counsel for the parties.

2 By this petition under Article 227 of the Constitution of India, the Petitioner plaintiff challenges the judgment and order dated 21.5.2013 passed by learned Maharashtra Revenue Tribunal, Pune in TNC/REV/35/2007 and the judgment and order dated 23.6.2006 in Kavi/678/2005 passed by the Sub-Divisional Officer, Ichalkaranji refusing to grant permission under section 43 of the Bombay Tenancy and Agricultural Lands Act, 1948.

3 In the present proceeding, initially the

petitioner filed Regular Civil Suit No. 146 of 2000 in the court of Civil Judge, Junior Division, Peth Vadgaon, Tal Hatkanangle, Dist.Kolhapur for specific performance and perpetual injunction. That suit was decreed by the Trial Court on 16.8.2002. Operative part of the decree reads thus:

- “(1) The suit is hereby decreed with costs.*
- (2) The defendants are hereby directed to take necessary steps / compliance to obtain permission from the appropriate authority under section 43(1) of the B.T. and A.L.Act to execute sale deed of suit property in favour of plaintiff within three months from the date of this order.*
- (3) If defendants fails to take such necessary steps then plaintiff is directed to take appropriate steps for obtaining permission from appropriate authority, on his application, through court commissioner, on the cost of defendants.*
- (4) In case the appropriate authority not given such permission to execute the sale deed, then defendants are directed to refund purchase price of Rs.50,000/- to the plaintiff.*
- (5) The prayer of plaintiff regarding perpetual injunction is hereby dismissed.*
- (6) Decree be drawn accordingly.”*

4 As the defendant failed and neglected to apply the authority for permission under section 43 of the said Act, Trial Court appointed Court Commissioner for filing application under section 43 of the said Act and the said permission was

refused. Hence, the present petition.

5 During the pendency of the present petition, learned Registrar passed order on 5.5.2015 dismissing the petition against respondent nos.3, 4, 5 and 6 (org.defendant nos.3 to 6). As the application is dismissed against some of the contesting parties i.e. original defendant nos.3 to 6, in my opinion, nothing survives in the present petition.

6 Hence, Writ Petition stands dismissed as infructuous in view of subsequent development.

JUDGE